

OVERVIEW LIST OF SELECTED FOIA DECISIONS

The decisions listed below are suggested as basic reading for those who are new to FOIA work or are in need of a refresher in the field. It is not intended to be a list of leading decisions. Rather, the purpose of the list is to provide a balanced introduction to the principal recurring issues in FOIA litigation. It should be remembered that there remain unresolved issues under the FOIA and that the interpretations set forth in the various decisions listed below are not in all instances universally accepted.

(b)(2)	Abraham & Rose, P.L.C. v. United States, 138 F.3d 1075 (6th Cir. 1998).
(b)(5), deliberative process	Access Reports v. DOJ, 926 F.2d 1192 (D.C. Cir. 1991).
(b)(1), E.O. 12065, E.O. 12356, (b)(5), deliberative process	Afshar v. Department of State, 702 F.2d 1125 (D.C. Cir. 1983).
(b)(3)	American Jewish Congress v. Kreps, 574 F.2d 624 (D.C. Cir. 1978).
(b)(2)	Audubon Soc’y v. United States Forest Serv., 104 F.3d 1201 (10th Cir. 1997).
(b)(7)(C), "Glomar" denial	Beck v. DOJ, 997 F.2d 1489 (D.C. Cir. 1993).
(b)(6)	Bibles v. Oregon Natural Desert Ass’n, 117 S. Ct. 795 (1997) (per curiam).
Personal records	Bureau of Nat’l Affairs, Inc. v. DOJ, 742 F.2d 1484 (D.C. Cir. 1984).
Fee waiver (Reform Act)	Carney v. DOJ, 19 F.3d 807 (2d Cir. 1994), cert. denied, 513 U.S. 823 (1994).
(b)(3), 50 U.S.C. §403(d)(3)	CIA v. Sims, 471 U.S. 159 (1985).
Reverse FOIA, (b)(3), 18 U.S.C. §1905, (b)(4), discretionary release	Chrysler Corp. v. Brown, 441 U.S. 281 (1979).
Reverse FOIA, (b)(3), 18 U.S.C. §1905, (b)(4)	CNA Fin. Corp. v. Donovan, 830 F.2d 1132 (D.C. Cir. 1987), cert. denied, 485 U.S. 977 (1988).
(b)(5), attorney-client privilege, attorney work-product privilege, deliberative process	Coastal States Gas Corp. v. DOE, 617 F.2d 854 (D.C. Cir. 1980).
(b)(6)	Core v. United States Postal Serv., 730 F.2d 946 (4th Cir. 1984).
(b)(4)	Critical Mass Energy Project v. NRC, 975 F.2d 871 (D.C. Cir. 1992) (en banc), cert. denied, 507 U.S. 984 (1993).
(b)(2)	Crooker v. Bureau of Alcohol, Tobacco & Firearms, 670 F.2d 1051 (D.C. Cir. 1981) (en banc).
(b)(7)(A)	Crooker v. Bureau of Alcohol, Tobacco & Firearms, 789 F.2d 64 (D.C. Cir. 1986).
(b)(6)	Department of Defense v. FLRA, 510 U.S. 587 (1994).

(b)(7)(D), assurance of confidentiality	Department of Justice v. Landano, 508 U.S. 165 (1993).
(b)(7)(C)	Department of Justice v. Reporters Comm. for Freedom of the Press, 489 U.S. 749 (1989).
Agency records, improper withholding	Department of Justice v. Tax Analysts, 492 U.S. 136 (1989).
(b)(6)	Department of State v. Ray, 502 U.S. 164 (1991).
(b)(6)	Department of State v. Washington Post Co., 456 U.S. 595 (1982).
(b)(2), (b)(6), reasonably segregable	Department of the Air Force v. Rose, 425 U.S. 352 (1976).
(b)(2)	Dirksen v. HHS, 803 F.2d 1456 (9th Cir. 1986).
(b)(5), disclosure to Congress, inter- or intra-agency memoranda	Dow Jones & Co. v. DOJ, 917 F.2d 571 (D.C. Cir. 1990).
(b)(7), (b)(7)(C), law enforcement purpose	FBI v. Abramson, 456 U.S. 615 (1982).
(b)(5), commercial privilege	Federal Open Market Comm. v. Merrill, 443 U.S. 340 (1979).
(b)(5), attorney work-product privilege	FTC v. Grolier Inc., 462 U.S. 19 (1983).
(b)(5), deliberative process, inter- or intra-agency memoranda	Formaldehyde Inst. v. HHS, 889 F.2d 1118 (D.C. Cir. 1989).
Agency, agency records	Forsham v. Harris, 445 U.S. 169 (1980).
(b)(3), Fed.R.Crim.P. 6(e), (b)(7)(C)	Fund for Constitutional Gov't v. NARS, 656 F.2d 856 (D.C. Cir. 1981).
(b)(3), 50 U.S.C. §403, "Glomar" denial	Gardels v. CIA, 689 F.2d 1100 (D.C. Cir. 1982).
(b)(1), Congressional records, duty to search	Goland v. CIA, 607 F.2d 339 (D.C. Cir. 1978), vacated in part & reh'g denied, 607 F.2d 367 (D.C. Cir. 1979), cert. denied, 445 U.S. 927 (1980).
(b)(1), E.O. 12356, deference to agency judgment	Goldberg v. Department of State, 818 F.2d 71 (D.C. Cir. 1987), cert. denied, 485 U.S. 904 (1988).
Improper withholding	GTE Sylvania, Inc. v. Consumers Union, 445 U.S. 375 (1980).
(b)(3), 50 U.S.C. §403, adequacy of agency affidavit, "mosaic," summary judgment	Halperin v. CIA, 629 F.2d 144 (D.C. Cir. 1980).
In camera inspection	Ingle v. DOJ, 698 F.2d 259 (6th Cir. 1983).
Agency, improper withholding, personal records	Kissinger v. Reporters Comm. for Freedom of the Press, 445 U.S. 136 (1980).
Adequacy of search, reasonably segregable	Krikorian v. Department of State, 984 F.2d 461 (D.C. Cir. 1993).
Waiver of exemption (unauthorized release)	Laborers' Int'l Union v. DOJ, 578 F. Supp. 52 (D.D.C. 1983), aff'd, 772 F.2d 919 (D.C. Cir. 1984).

(b)(1), E.O. 11652, (b)(2), (b)(7), (b)(7)(C), (b)(7)(D), belated classification, law enforcement purpose	Lesar v. DOJ, 455 F. Supp. 921 (D.D.C. 1978), aff'd, 636 F.2d 472 (D.C. Cir. 1980).
(b)(2)	Maricopa Audubon Soc'y v. United States Forest Serv., 108 F.3d 1082 (9th Cir. 1997).
(b)(5), attorney work-product privilege	Martin v. Office of Special Counsel, 819 F.2d 1181 (D.C. Cir. 1987).
Fee waiver	McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282 (9th Cir. 1987).
(b)(7)(C)	McCutchen v. HHS, 30 F.3d 183 (D.C. Cir. 1994).
(b)(7), law enforcement purpose	Mittleman v. OPM, 76 F.3d 1240 (D.C. Cir. 1996).
(b)(5), discretionary release, waiver of exemption	Mobil Oil Corp. v. EPA, 879 F.2d 698 (9th Cir. 1989).
(b)(5), deliberative process, reasonably segregable	Montrose Chem. Corp. v. Train, 491 F.2d 63 (D.C. Cir. 1974).
(b)(6)	National Ass'n of Retired Fed. Employees v. Horner, 879 F.2d 873 (D.C. Cir. 1989), cert. denied, 494 U.S. 1078 (1990).
(b)(7)(A)	NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214 (1978).
(a)(2)(A), (b)(5), deliberative process	NLRB v. Sears, Roebuck & Co., 421 U.S. 132 (1975).
(b)(4)	National Parks & Conservation Ass'n v. Morton, 498 F.2d 765 (D.C. Cir. 1974).
Fee waiver	National Treasury Employees Union v. Griffin, 811 F.2d 644 (D.C. Cir. 1983).
(b)(2)	National Treasury Employees Union v. United States Customs Serv., 802 F.2d 525 (D.C. Cir. 1986).
Scope of request	Nation Magazine v. United States Customs Serv., 71 F.3d 885 (D.C. Cir. 1995).
(b)(4)	9 to 5 Org. for Women Office Workers v. Board of Governors of the Fed. Reserve Sys., 721 F.2d 1 (1st Cir. 1983).
(b)(7)(A), FOIA as a discovery tool	North v. Walsh, 881 F.2d 1088 (D.C. Cir. 1989).
Exhaustion of administrative remedies	Oglesby v. Department of the Army, 920 F.2d 57 (D.C. Cir. 1990).
(b)(6)	Painting & Drywall Work Preservation Fund v. HUD, 936 F.2d 1300 (D.C. Cir. 1991).
Injunction against improper agency practices, jurisdiction	Payne Enters. v. United States, 837 F.2d 486 (D.C. Cir. 1988).
(b)(5), reasonably segregable	Petroleum Info. Corp. v. Department of the Interior, 976 F.2d 1429 (D.C. Cir. 1992).
(b)(2), reasonably segregable	PHE, Inc. v. DOJ, 983 F.2d 248 (D.C. Cir. 1993).
Exhaustion of administrative remedies	Pollack v. DOJ, 49 F.3d 115 (4th Cir. 1995), cert. denied, 516 U.S. 843 (1995).
(b)(7), law enforcement purpose	Pratt v. Webster, 673 F.2d 408 (D.C. Cir. 1982).

(b)(1), waiver of exemption	Public Citizen v. Department of State, 11 F.3d 198 (D.C. Cir. 1993).
In camera inspection	Quinon v. FBI, 86 F.3d 1222 (D.C. Cir. 1996).
(a)(2)(A), (b)(5)	Renegotiation Bd. v. Grumman Aircraft Eng'g Corp., 421 U.S. 168 (1975).
(b)(5), deliberative process	Russell v. Department of the Air Force, 682 F.2d 1045 (D.C. Cir. 1982).
(b)(5), agency, waiver of exemption (failure to assert in litigation)	Ryan v. DOJ, 617 F.2d 781 (D.C. Cir. 1980).
(b)(5), deliberative process	Schell v. HHS, 843 F.2d 933 (6th Cir. 1988).
Selective disclosure	Schiffer v. DOJ, 78 F.3d 1405 (9th Cir. 1996).
(b)(2)	Schwaner v. Department of the Air Force, 898 F.2d 793 (D.C. Cir. 1990).
(b)(3), Fed.R.Crim.P. 6(e), (b)(5), attorney work-product privilege, deliberative process	Senate of P.R. v. DOJ, 823 F.2d 574 (D.C. Cir. 1987).
(b)(5), deliberative process, incorporation by reference	Skelton v. United States Postal Serv., 678 F.2d 35 (5th Cir. 1982).
(b)(7)(A), reasonably segregable	Solar Sources, Inc. v. United States, 142 F.3d 1033 (7th Cir. 1998).
Agency, equitable discretion	Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971).
Statute of limitations	Spannaus v. DOJ, 813 F.2d 1285 (D.C. Cir. 1987).
(b)(6), law enforcement purpose	Stern v. FBI, 737 F.2d 84 (D.C. Cir. 1984).
Burden of proof, Vaughn Index	Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).
(b)(5), FOIA as a discovery tool	Weber Aircraft Corp. v. United States, 465 U.S. 792 (1984).
Attorney's fees	Weisberg v. DOJ, 848 F.2d 1265 (D.C. Cir. 1988).
Agency records	Wolfe v. HHS, 711 F.2d 1077 (D.C. Cir. 1983).
(b)(5), deliberative process	Wolfe v. HHS, 839 F.2d 768 (D.C. Cir. 1988) (en banc).